

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1183**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Local Government, May 6, 2004, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 1183 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

3589L.08C

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**AN ACT**

To repeal sections 64.825 and 89.410, RSMo, and to enact in lieu thereof two new sections relating to regulations governing the subdivision of land.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 64.825 and 89.410, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 64.825 and 89.410, to read as follows:

64.825. The county planning commission may also prepare, with the approval of the  
2 county commission, as parts of the official master plan or otherwise, sets of regulations  
3 governing subdivisions of land in unincorporated areas, and amend or change same from time  
4 to time as herein provided, which regulations may provide for the proper location and width of  
5 streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of  
6 population, including minimum width and area of lots. Such regulations may also include the  
7 extent to which and the manner in which streets shall be graded and improved, and the extent to  
8 which water, sewer and other utility services shall be provided, to protect public health and  
9 general welfare. Such regulations may provide that in lieu of the immediate completion or  
10 installation of the work, the county planning commission may accept bond for the county  
11 commission in the amount and with surety **or other form of security** and conditions satisfactory  
12 to the county commission, providing for and securing to the county commission the actual  
13 construction of the improvements and utilities within a period specified by the county planning

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

14 commission, and the county commission shall have power to enforce the bond **or other form**  
15 **of security** by all proper remedies. The subdivision regulations shall be adopted, changed or  
16 amended, certified and filed as provided in section 64.815. The subdivision regulations shall be  
17 adopted, changed or amended only after a public hearing has been held thereon, public notice of  
18 which shall be given in the manner as provided for the hearing in section 64.815.

89.410. 1. The planning commission shall recommend and the council may by ordinance  
2 adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in  
3 addition to the requirements provided by law for the approval of plats, may provide requirements  
4 for the coordinated development of the city, town or village; for the coordination of streets within  
5 subdivisions with other existing or planned streets or with other features of the city plan or  
6 official map of the city, town or village; for adequate open spaces for traffic, recreation, light and  
7 air; and for a distribution of population and traffic; provided that, the city, town or village may  
8 only impose requirements [and] **for the posting of bonds [regarding], letters of credit or escrows**  
9 **for subdivision-related [regulations] improvements** as provided for in subsections 2 to [4] **5** of  
10 this section.

11 2. The regulation may include requirements as to the extent and the manner in which the  
12 streets of the subdivision or any designated portions thereto shall be graded and improved as well  
13 as including requirements as to the extent and manner of the installation of all utility facilities.  
14 Compliance with all of these requirements is a condition precedent to the approval of the plat.  
15 The regulations or practice of the council may provide for the tentative approval of the plat  
16 previous to the improvements and utility installations; but any tentative approval shall not be  
17 entered on the plat. The regulations may provide that, in lieu of the completion of the work and  
18 installations previous to the final approval of a plat, the council [may] **shall accept [a], at the**  
19 **option of the developer, an escrow secured with cash or an irrevocable letter of credit**  
20 **deposited with the city, town, or village. The city, town, or village may accept a surety bond**  
21 **[or escrow], and such bond shall be** in an amount and with surety and other reasonable  
22 conditions, providing for and securing the actual construction and installation of the  
23 improvements and utilities within a period specified by the council and expressed in the bond[;  
24 provided that,]. The release of **any** such escrow, **letter of credit, or bond** by the city, town or  
25 village shall be as specified in this section. The council may enforce the **escrow or bond** by all  
26 appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion  
27 of the work and installations previous to the final approval of a plat, for an assessment or other  
28 method whereby the council is put in an assured position to do the work and make the  
29 installations at the cost of the owners of the property within the subdivision. The regulations  
30 may provide for the dedication, reservation or acquisition of lands and open spaces necessary for  
31 public uses indicated on the city plan and for appropriate means of providing for the

32 compensation, including reasonable charges against the subdivision, if any, and over a period of  
33 time and in a manner as is in the public interest.

34       **3. The regulations shall provide that in the event a developer who has posted an**  
35 **escrow, or letter of credit, or bond with a city, town, or village in accordance with**  
36 **subsection 2 of this section transfers title of the subdivision property prior to full release**  
37 **of the escrow, letter of credit, or bond, the municipality shall accept a replacement escrow**  
38 **or letter of credit from the successor developer in the form allowed in subsection 2 of this**  
39 **section and in the amount of the escrow or letter of credit held by the city, town, or village**  
40 **at the time of the property transfer, and upon receipt of the replacement escrow or letter**  
41 **of credit, the city, town, or village shall release the original escrow or letter of credit in full**  
42 **and release the prior developer from all further obligations with respect to the subdivision**  
43 **improvements if the successor developer assumes all of the outstanding obligations of the**  
44 **previous developer. The city, town, or village may accept a surety bond from the successor**  
45 **developer in the form allowed in subsection 2 of this section and in the amount of the bond**  
46 **held by the city, town, or village at the time of the property transfer, and upon receipt of**  
47 **the replacement bond, the city, town, or village shall release the original bond in full, and**  
48 **release the prior developer from all further obligations with respect to the subdivision**  
49 **improvements.**

50       **4. The regulations shall provide that any escrow or bond amount held by the city, town**  
51 **or village to secure actual construction and installation on each component of the improvements**  
52 **or utilities shall be released within thirty days of completion of each category of improvement**  
53 **or utility work to be installed, minus a maximum retention of five percent which shall be released**  
54 **upon completion of all improvements and utility work. The city, town, or village shall inspect**  
55 **each category of improvement or utility work within twenty business days after a request**  
56 **for such inspection.** Any such category of improvement or utility work shall be deemed to be  
57 completed upon certification by the city, town or village that the project is complete in  
58 accordance with the ordinance of the city, town or village including the filing of all  
59 documentation and certifications required by the city, town or village, in complete and acceptable  
60 form. The release shall be deemed effective when the escrow funds **or bond amount** are duly  
61 posted with the United States Postal Service or other agreed-upon delivery service or when the  
62 escrow funds **or bond amount** are hand delivered to an authorized person or place as specified  
63 by the owner or developer.

64       **[4.] 5. If the city, town or village has not released the escrow funds or bond amount**  
65 **within thirty days as provided in this section or provided a timely inspection of the**  
66 **improvements or utility work after request for such inspection, the city, town or village shall**  
67 **pay the owner or developer in addition to the escrow funds due the owner or developer, interest**

68 at the rate of one and one-half percent per month calculated from the expiration of the thirty-day  
69 period until the escrow funds **or bond amount** have been released. Any owner or developer  
70 aggrieved by the city's, town's or village's failure to observe the requirements of this section may  
71 bring a civil action to enforce the provisions of this section. In any civil action or part of a civil  
72 action brought pursuant to this section, the court may award the prevailing party or the city, town  
73 or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

74 [5.] **6.** Nothing in this section shall apply to performance, maintenance and payment  
75 bonds required by cities, towns or villages.

76 [6.] **7.** Before adoption of its subdivision regulations or any amendment thereof, a duly  
77 advertised public hearing thereon shall be held by the council.

78 **8. The provisions of subsection 2 of this section requiring the acceptance of an**  
79 **escrow secured by cash or an irrevocable letter of credit, rather than a surety bond, at the**  
80 **option of the developer, all of the provisions of subsection 3 of this section, and the**  
81 **provisions of subsections 4 and 5 of this section regarding an inspection of improvements**  
82 **or utility work within twenty business days shall not apply to any home rule city with more**  
83 **than four hundred thousand inhabitants and located in more than one county.**

84 **9. Notwithstanding the provisions of section 290.210, RSMo, to the contrary,**  
85 **improvements secured by escrow, letter of credit, or bond as provided in this section shall**  
86 **not be subject to the terms of sections 290.210 to 290.340, RSMo, unless they are paid for**  
87 **wholly or in part out of public funds.**